IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODG.)NO.738 OF 2007

Shantabai B. Rathod ....Petitioner

V/s.

The Assistant Municipal Commissioner,
M-Ward, Chembur, Mumbai & Ors. ...Respondents

Shri.S.A. Sawant for Petitioner.
Mr.N.A. Shaikh for BMC.

CORAM : V.M. KANADE, J.
DATED : 18th JUNE, 2007.

P.C:-

1. Heard learned counsel for the Petitioner and learned counsel for the BMC.

2. Grievance of the Petitioner is that though she had filed documents which clearly establish that hutment in which she resides was in existence prior to 1995, Deputy Municipal Commissioner has rejected her application for alternate accommodation without taking into consideration these documents which are submitted by the Petitioner herein.

2. Learned counsel for the Petitioner has invited my attention to the certificate which is issued by the Senior Colony Officer, M-West Ward and also Assistant Municipal Commissioner who have stated in their letters that the Petitioner herein is eligible to get alternate accommodation. He submitted that even these letters which are issued by the officers of the Corporation had not been taken into consideration before deciding the application which was filed by the Petitioner.

3. Learned counsel for the Corporation submits that the Assistant Municipal Commissioner or the Senior Colony Officer are not competent to decide issue of eligibility of the Petitioner for grant of alternate accommodation. In my view, order passed by the Deputy Municipal Commissioner is liable to be set aside. It is obvious that he has not taken into consideration documents of the Petitioner which are annexed to these petition, which have admittedly been tendered by the Petitioner during the course of proceedings. The matter is remanded back. The Deputy Municipal Corporation, Zone V will consider the documents and also certificate issued by the officers of the Corporation and decide the application

as expeditiously as possible and in any case within a period of three months in accordance with law. Rule is made absolute in above terms. Petition is disposed off accordingly.

V.M. KANADE, J.